

Chen



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10/022,491	12/18/2001	Stephen G. Malloy Desormeaux	83096ARLW	4283

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EXAMINER

YE, LIN

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/022,491

Applicant(s)

MALLOY DESORMEAUX,  
STEPHEN G.

Examiner

Lin Ye

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 1/14/05 have been fully considered but they are not persuasive as to claims 1-20.

For claims 1, 4-7, 13-16, 18 and 20, the applicant argues that the Fellegara reference (U.S. 5,845,166) does not disclose the images stored in the storage section (127) need to be overwritten, therefore, there is no need to identify those images in film mode storage section (127) by tagging those images (See Applicant's Arguments page 2, lines 12-15).

The examiner disagrees. The Fellegara reference clearly discloses the size of the storage section (127) is **only sufficient** to store a number of film mode digital images corresponding to the maximum number of film images that cloud be captured on **one film cartridge** (See page 13, lines 21-25); therefore, when the first film is completed and rewound, and the second film (new film) is inserted into the cartridge, the old film mode digital images stored in the storage section (127) corresponding to the film images of the first film are erased by the microcontroller (120), the new film mode digital images corresponding to the film images of the second film will be stored in the storage section (127) for replacing the old film mode digital images inherently. The old film mode digital images corresponding to the film images of the first film are considered as the "a first plurality of electronic images in said camera" as recited claim 1. The new film mode digital images corresponding to the film images of the second film are considered as the "a second plurality of electronic images in

said camera” as recited claim 1. For these reason, the images stored in storage section (127) are at risk of being overwritten.

The applicant argues that references of Fellegara (5,845,166) and Yamakawa (6,217,515) individually; the Fellegara reference use of a tag that is used for associating corresponding photographic film images and certainly not used to identify those images that the operator does not want to be overwritten; therefore the basic combination of Fellegara and Yamakawa fails on the basis that it is not obvious and that even if made, would not teach the claimed invention of the present application (**See Applicant’s Arguments page 3, lines 1-15**).

In response to applicant’s arguments against the references individually, **one cannot** show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The examiner understands the Fellegara reference that provides a tag for matching identification purposes before and/or after downloading; but it does not explicitly show using the tags to selectively mark the interested images for retaining purpose in the memory instead that retaining the interested images in the album image section (125) since the images stored in the storage section (127) are at risk of being overwritten (See Col. 13, lines 17-31). It also should be noted that the Fellegara reference does not state the tags cannot be used for any other purposes except matching identification (e.g., in Figure 14, the tagging of image includes an ID file **and image information file**, and the tagging of image attached with each corresponding image data, see Col. 15, lines 53-63). The Yamakawa reference teaches the method uses the tags for retaining the interested images in the memory (See Col. 4, lines 11-

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22). The Yamakawa reference is evidence that one ordinary skill in the art at the time to see more advantages that the electronic images system using the tags to retain some particular images in the memory for future review without overwriting by other newest images when the maximum capacity of image memory is reached, also the system **does not need to require a additional section space** in the memory for storing these particular images. For that reason, it would have been obvious to one of ordinary skill in the art to modify the camera system of Fellegara ('166) for providing a method to use the tags to selectively mark the interested images for retaining purpose in the memory and only overwriting the untagged (uninterested) images in the memory on a first in-first out basis as taught by Yamakawa ('515).

***Terminal Disclaimer***

2. The terminal disclaimer filed on 1/14/05 has been reviewed and is approved. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 4-7, 13-16, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fellegara et al. U.S. Patent 5,845,166 in view of Yamakawa et al. U.S. Patent 6,217,515 and Yamamoto et al. U.S. Patent 6,683,650.

Referring to claim 1, the Fellegara reference discloses in Figures 6-7, 14 and 19, a method for managing electronic images, said method comprising: capturing a first plurality of electronic images in a camera (e.g., the film mode digital images corresponding to images captured on the first photographic film in the hybrid image capture mode are considered as the “a first plurality of electronic images in said camera”, see Col. 9, lines 65-67 and Col. 10, lines 1-7); filling memory in said camera to capacity with said first plurality of electronic images (e.g., image storage section 127 of the flash memory 126, see Col. 13, lines 17-31); capturing a second plurality of electronic images in said camera (the film mode digital images corresponding to images captured on the second photographic film or new photographic film in the hybrid image capture mode are considered as the “a second plurality of electronic images in said camera”), following said filling; selectively assigning individual electronic images to the album image storage section (125) of the memory 126 (See Col. 16, lines 23-30); during said capture of said second plurality of electronic images, replacing the images in the image storage section (127) of the memory (126); retaining the images in the album image section (125) (See Col. 13, lines 27-31) during said replacing; downloading together the tagged electronic images (e.g., the digital images captured in hybrid mode has the frame number tag of a corresponding photographic file images, see Col. 15, lines 56-59) and said untagged electronic images (e.g., the digital images captured in digital capture mode and stored on the memory without a frame number tag) to provide a set of downloaded

images external to said camera as shown in Figure 19 (See Col. 19, lines 8-39); and retaining said tags in said downloaded images corresponding to said tagged electronic images (e.g., the download album images always include an ID file which contains tag, and image information file and an image data field as shown in Figure 14). However, the Fellegara reference does not explicitly show using the tags to selectively mark the interested images for retaining purpose in the memory and only overwriting the untagged (uninterested) images in the memory on a first in-first out basis instead that storing the interested images in the album section.

The Yamakawa reference discloses in Figure 3, an electronic image memory (cine memory 4) for storing a plurality of image data sets, and storing a plurality of the newest image data sets by overwriting the stored oldest image with the newest images (e.g., first in first out overwriting method, see Col. 3, lines 40-43); and the image memories tagged with marks are skipped are not overwritten. The Yamakawa reference teaches the method uses the tags for retaining the interested images in the memory (See Col. 4, lines 11-22). The Yamakawa reference is evidence that one ordinary skill in the art at the time to see more advantages that the electronic images system using the tags to retain some particular images in the memory for future review without overwriting by other newest images when the maximum capacity of image memory is reached, also the system **does not need to require a additional section space** in the memory for storing these particular images. For that reason, it would have been obvious to one of ordinary skill in the art to modify the camera system of Fellegara ('166) for providing a method to use the tags to selectively mark the interested

images for retaining purpose in the memory and only overwriting the untagged (uninterested) images in the memory on a first in-first out basis as taught by Yamakawa ('515).

The Fellegara reference does not explicitly show the camera system can selectively terminate tagged images as untagged images, the terminating being independent of said capturing.

The Yamamoto reference discloses in Figures 4-5, the digital camera can selectively assign a tag to the image on the display with a key mark for protecting the image, and the image will not be erased (see Col. 4, lines 37-40); the camera operator also can select a protect mode and terminate (the protection is cancelled) the tag (key mark) from the image independently (See Col. 4, lines 46-53). The Yamamoto reference is evidence that one of ordinary skill in the art at the time to see more advantages that the camera system has more flexible option to assign or terminate the tag from the image so that camera operator can easily decide to retain or erase the image data in the camera in any time. For that reason, it would have been obvious that one of ordinary skill in the art at the time to modify the camera system of Fellegara ('166) for providing a method to selectively terminate tagged images as untagged images, the terminating being independent of said capturing as taught by Yamamoto ('650).

Referring to claim 4, the Fellegara reference discloses capturing latent images on photographic film (See Col. 6, lines 1-28).

Referring to claim 5, the Fellegara reference discloses capturing of said electronic images (e.g., in hybrid capture mode), capturing corresponding first and second pluralities of latent images on photographic film (see Col. 9, lines 65-67 and Col. 10, lines 1-7).



Referring to claim 6, the Fellegara reference discloses in hybrid image capture or film capture mode, loading a first film unit into said camera prior to said first capturing step and replacing said first film unit with a second film unit during said first capturing step. (e.g., new film cartridge can be loaded in the film transport unit when last film is rewound into the cartridge, see Col. 9, lines 62-67 and Col. 10, lines 1-6).

Referring to claim 7, the Fellegara, Yamakawa and Yamamoto references disclose all subject matter as discussed with respected to same comment as with claim 1, and the Fellegara reference discloses wherein said second plurality is less than said first plurality (e.g., the Fellegara reference shows the film transport unit 60 has various sensors, including a film perforation sensor and cartridge sensors to provide information regarding the type of the film cartridge, this will be considered as the camera system can take any type of the film cartridge which has different frame number. Inherently, second plurality of electronic images corresponding with the photographic images in the second film cartridge could be less than the first plurality of electronic images corresponding with the photographic images in the first film cartridge) prior to said terminating (e.g., as discussed in claim 1, the Yamamoto reference shows the camera operator can easily to retain or erase the selected image data in the camera in any time, so it would obvious that Fellegara camera system can load the second cartridge film and capture a plurality second plurality of electronic images prior to said terminating).

Referring to claim 13, the Fellegara, Yamakawa and Yamamoto references disclose all subject matter as discussed with respected to same comment as with claim 1.

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Referring to claim 14, the Fellegara, Yamakawa and Yamamoto references disclose all subject matter as discussed with respected to same comment as with claim 4.

Referring to claim 15, the Fellegara, Yamakawa and Yamamoto references disclose all subject matter as discussed with respected to same comment as with claim 5.

Referring to claim 16, the Fellegara, Yamakawa and Yamamoto references disclose all subject matter as discussed with respected to same comment as with claims 1, and the Fellegara reference discloses in Figure 6, a hybrid electronic-film camera for use with photographic film units (14), said camera comprising: a body (10, in Figure 1); an electronic capture unit disposed in said body, said electronic capture unit (16) capturing a sequence of electronic images; memory (126) disposed in said body in operative relation to said electronic capture unit, said memory storing said electronic images, said memory having a predetermined storage capacity as shown in Figure 7 (See, Col. 3, lines 44-61 and Col. 13, lines 16-31).

Referring to claim 18, the Fellegara reference discloses a film capture unit (14) capable of selectively capturing a plurality of latent images on said film (See Col. 5, lines 6-20).

Referring to claim 20, the Yamamoto reference discloses wherein said tag selector selectively untags individual ones of said tags (e.g., in protect mode, see Col. 4, lines 46-58).

5. Claim 2, 8-12 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Fellegara et al. U.S. Patent 5,845,166 in view of Yamakawa et al. U.S. Patent 6,217,515, Yamamoto et al. U.S. Patent 6,683,650 and Kuno U.S. Patent 6,567,121.

Referring to claim 2, the Fellegara, Yamakawa and Yamamoto references disclose all subject matter as discussed in respected claim 1, except the references do not explicitly show the camera system also be able to terminate said tags of said tagged images in said memory responsive to said downloading.

The Kuno reference discloses in Figure 1, a camera system including a storage device (6); the images data are stored in the storage device (6) with a tag (e.g., client registration information), when the storage capacity of each client is about to be exceed, the images are downloaded to the client; the client user may select images to be erased, and the server may erase the selected images (e.g., this can be considered as the storage device is responsive to the downloading to terminate the tagged image for erasing, see Col. 4, lines 59-67 and Col. 5, lines 1-5). The Yamamoto reference is evidence that one of ordinary skill in the art at the time to see more advantages that the camera system can terminate the tagged images responsive to the downloading so that user can remotely decide which images should be erased or overwriting in the memory. For that reason, it would have been obvious to the camera system also be able to terminate said tags of said tagged images in said memory responsive to said downloading disclosed by Fellegara.

Referring to claim 8, the Fellegara, Yamakawa, Yamamoto and Kuno references disclose all subject matter as discussed with respected to same comment as with claims 1-2 and 4.

Referring to claim 9, the Fellegara reference discloses wherein said capturing of each of said latent images is concurrent with said capturing of a respective one of said electronic images in hybrid capture mode (See Col. 9, lines 65-67, Col. 10, lines 1-5).

Referring to claim 10, the Fellegara reference discloses wherein each of said electronic images corresponds to one of said latent images (See Col. 15, lines 55-60).

Referring to claim 11, the Fellegara reference discloses wherein said latent images are captured in a plurality of film units and said method further comprises sequentially loading a plurality of film units into said camera (e.g., new film cartridge can be loaded in the film transport unit when last film is rewound into the cartridge, see Col. 9, lines 62-67 and Col. 10, lines 1-6).

Referring to claim 12, as discussed in claim 1, the Yamamoto reference discloses that the camera system has more flexible option to assign or terminate the tag from the image, and the camera operator can easily decide to retain or erase the image data in the camera in any time (this can be considered as terminating on or more of said tags prior to downloading inherently).

Referring to claim 17, the Fellegara, Yamakawa, Yamamoto and Kuno references disclose all subject matter as discussed with respected to same comment as with claims 1-2 and 16.

6. Claims 3 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Fellegara et al. U.S. Patent 5,845,166 in view of Yamakawa et al. U.S. Patent 6,217,515, Yamamoto et al. U.S. Patent 6,683,650 and Theimer U.S. Patent 6,526,486.

Referring to claim 3, the Fellegara, Yamakawa and Yamamoto references disclose all subject matter as discussed in respected claim 1, except the references do not explicitly show

the retaining is for a predetermined time interval and said terminating is at the expiration of said time interval and the terminating is at the expiration of said time interval.

The Theimer reference discloses in Figures 3 and 4, a video camera system (including video camera 20, see Col. 5, lines 24-32) has a memory management method in which lifetimes (predetermined time intervals) are assigned to message (data) which are to be written into a memory, when the memory is full and further messages arrive those stored messages whose period of activation has expired the longest are cleared (terminated) as in Figure 4 (See Col. 6, lines 22-37). The Theimer reference is evidence that one of ordinary skill in the art at the time to see more advantages that the camera system can assign a predetermined time interval (lifetime) to retain the selected image data in the memory so that only the image data out lived their usefulness are candidates for removal and no activated data will be lost. For that reason, it would have been obvious to the camera system including means retaining is for a predetermined time interval and said terminating is at the expiration of said time interval and the terminating is at the expiration of said time interval disclosed by Fellegara.

Referring to claim 19, the Fellegara, Yamakawa, Yamamoto and Theimer references disclose all subject matter as discussed with respected to same comment as with claim 3.

### ***Conclusion***

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7. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

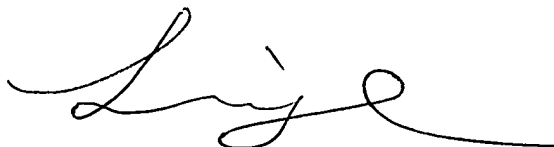
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Ye whose telephone number is (571) 272-7372. The examiner can normally be reached on Mon-Fri 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Lin Ye', with a long horizontal flourish extending to the right.

Lin Ye  
Examiner  
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January 24, 2006